GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – TWD – Revision Petition filed by Smt. S. Aruna Kumari, Administrative Officer, Oriental Insurance Co. Ltd., Ganjam District, Odisha State, against the G.O.Ms.No.81, S.W.(CV.2) Department, dated 31.08.2001 & Proceedings, Rc.No.1030/95 C7, dated 03.10.1999 of the District Collector, Vizianagaram cancelling her ST 'Konda Dora' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Revision Petition dismissed – Orders – Issued.

TRIBAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.16, Dated: 21.02.2023.
Read the following:

1. Proceedings of the District Collector, Vizianagaram, Rc.No.1030/95 C7, dt:03.10.1999.
2. G.O.Ms.No.81, S.W.(CV.2) Department, dated 31.08.2001.
3. The orders of the Hon'ble High Court of AP, Hyderabad in W.P.No.7897/2007, dated 12.11.2018 filed by Smt. S. Aruna Kumari.
4. Revision Petition filed by S. Aruna Kumari, Administrative Officer, Oriental Insurance Co Ltd., Ganjam District, Odisha State, before the M(TW) & copy marked to Prl. Secretary (SW&TW), dated 20.12.2018.
5. Govt. Memo. TWoACTS/11/CV.2/2018, dt: 09.01.2019.
6. From the District Collector, Vizianagaram, Lr.(M) Rc.No.435/07/C5, dt:08.07.2019.
7. Orders of the Hon'ble High Court of A.P. in WP.No.21155/2021, dated 23.09.2021 filed by Smt. S. Aruna Kumari.
8. Govt. Memo.TWoACTS/11/CV.2/2018, dt:09.01.2019, 09.10.2019, 13.11.2019, 08.07.2021, 04.08.2021 & 18.11.2022.
9. Written arguments filed by the appellant before the Government, dt.21.08.2021.

***

ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Vizianagaram has issued orders cancelling the "ST-Konda Dora" community certificate of Smt. S. Aruna Kumari, Administrative Officer, Oriental Insurance Co Ltd., Ganjam District, Odisha State obtained from the then Tahsildar, Salur, Vizianagaram District in 1979.

2. In the reference 2nd read above, Government have upheld the proceedings of the District Collector, Vizianagaram, wherein her ST-Konda Dora caste certificate was cancelled.

3. In the reference 3rd read above, the Hon'ble High Court of A.P., while disposing the WP No.7897/2007, on 12.11.2018 has ordered that liberty given to the petitioner to file a fresh revision before the respondent No.1 (Prl. Secretary, SW Dept.,) within (15) days from the date of receipt of a copy of the order. On such filing, respondent No.1 shall pass appropriate orders by giving an opportunity of being heard to the petitioner within a period of three months thereafter, as per law".

4. In the reference 4th read above, Smt. S. Aruna Kumari filed Revision Petition before the Government against the G.O.Ms.No.81, S.W.(CV.2) Department, dated 31.08.2001 & proceedings, Rc.No.1030/95 C7, dated 03.10.1999 of the District Collector, Vizianagaram. Government have admitted the same and requested to furnish the Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector in Govt. Memo 5th read above.

[Contd..on P.2]

5. In the letter 6th read above, the Collector & District Magistrate, Vizianagaram has furnished para-wise remarks on the Appeal Petition filed by Smt. S. Aruna Kumari.

6. The Appellant has again filed WP No.21155/2021 for not examining the grounds of the revision petition, dt.26.12.2018 and written arguments filed with documents and the case law filed on 23.08.2021. In the letter 7th read above, the Hon'ble High Court of A.P. in WP No.21155/2021 in its orders dated 23.09.2021 has directed to dispose of the Revision Petition as per the procedure contemplated under the law on duly considering evidence if any produced by her in support of her claim. At this juncture, the Hon'ble High Court in its orders, dt.23.09.2021 in WP No.21155/2021 while disposing the WP had directed to dispose the revision petition as per the procedure contemplated under law on duly considering the documentary evidence if any produced by her in support of her case and the written submission filed by her within a period of eight weeks.

7. In compliance to the orders of the Hon'ble High Court, the said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 26.11.2022 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 8th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & Written arguments filed by the Appellant/para-wise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram, dated 03.10.1999, the Appellate authority has observed that;

- This Revision Petition is filed against the G.O.Ms.No.81, S.W. (CV.2) Department, dated 31.08.2001, wherein the Government have upheld the proceedings of the District Collector, Vizianagaram issued in No 1030/95 C7, dt.03-10-1999 cancelling the ST-Konda Dora certificate bearing No D.Dis No.3326/79 dated 25-08-1979 issued by the then Tahsildar, Salur in favor of the Revision Petitioner herein.
- The Revision Petitioner filed written statement on 23-08-2021 along with a few citations in support of her claim. The Hon'ble High Court of Andhra Pradesh in its orders dated.23-09-2021 passed in WP.No.21155 /2021 directed to dispose of the Revision Petition as per the procedure contemplated under the law on duly considering evidence if any produced by her in support of her claim.
- The Revision Petitioner filed a Memo on the date of final hearing on 26-11-2022, requesting to pass appropriate orders in the matter. Perused the material documents available on the records, more particularly the Revision Petition, and Written Statements along with the documents and citations given in support of the claim of the Revision Petitioner and parawise remarks submitted by the District Collector and the connected records.
- The following issues are emerging from the records.

  Issue No.1: Whether Mandal Revenue Officer has competency to deal with the caste enquiry

  - The main contention of the Revision Petitioner (RP) is that the Mandal Revenue Officer, Salur has no competency to conduct enquiry in respect of Konda Dora ST community in the non-scheduled area. According to her it is the Revenue Divisional Officer(RDO) alone has the authority, and in support of her contention, she also cited an order issued by the High Court in WP.No.11213 of 2012. In that case the Hon'ble High Court of AP was pleased to observe that the RDO is the competent authority under the Act 16 of 1993 to consider the application for issuance of community certificate and pass orders there on.
  - In this present case, the District Collector directed the MRO, Salur to *enquire, and report* in the year 1988 in relation to the claim of the Revision Petitioner here in and the MRO, Salur reported in the year 1991, and 1992 to the District Collector stating that the caste certificate issued to Kum. Sanakaravamsam Aruna Kumari(RP) basing on the blood relationship of her grandfather with Sri LN Sanyasi raju and his caste issue is pending in the High Court.

[Contd..on P.3]

- Therefore, the enquiry report of the MRO is much prior to the commencement of the A.P (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 read with the A.P (Scheduled Castes, Scheduled Tribes and Backward classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 and further notifications issued there under. Moreover, the District Collector only directed the MRO, Salur to conduct an enquiry and report, not to issue community certificate. Therefore, the order cited by the Revision Petitioner is not relevant to the facts of the case. As such there is no merit in this contention.

Issue No 2: Whether the Revision Petitioner is entitled to claim the ST status on the basis of orders given in case of Sri L.N. Sanyasi Raju or others.

- The further claim of the Revision Petitioner is that she is the blood relative of Late Sri LN Sanayasi Raju and the ST Caste Certificate issued to him in D.Dis No.1542/79, dt.16-5-1979 was upheld by the Hon'ble A.P. High Court in Writ Petition No.1782/83 and its related Writ Appeal No. 9/86. As such she is entitled to be treated as ST-Konda Dora.

- The High Court of AP dealing with Writ Petitions filed by Sri L.N.Sanyasi Raju and S.J.Narayana Jana Dev separately challenging the cancellation of the certificates issued to them as ST status-Konda Dora .The High Court was pleased to hold in a common order on 25.04.1985 in W.P.Nos.5306/81 and 1782/82, observing that they belong to ST Konda Dora. The claims of both the petitioners are interrelated and on common grounds.

- However the Government of AP filed a Writ Appeal No.09/1986 against the order passed in WP 1782/82 (L.N.Sanyasi Raju case).The Division Bench of the Hon'ble High Court passed an order in the appeal on 24.03.1987, while observing that "We wish to make it clear that we have not considered the merits of the claim that the respondent belongs to Konda Dhora community". The High Court further held that "if the appellants(Govt.) should consider that a re-appraisal of the matter is necessary, it will be open to them to put the respondent on notice and give appropriate opportunity to the respondent to establish his case".

- The said Sri LN Sanayasi Raju again filed a WP No.11916/1987, in the Hon'ble High Court seeking orders to declare him and his children are entitled to be treated as ST-Konda Dora. The High Court passed orders on 09.09.1989 where in directed the Government to complete the enquiry and until a contrary conclusion the Petitioner is entitled to be treated as ST as observed by the division bench of High Court.

- The Hon'ble High Court in the Writ Petition No.3240/1989 filed by the sons and other relatives of L.N. Sanyasi Raju seeking them to be treated as STs for all purpose. The Hon'ble High Court passed an order on 29.09.1989 holding that the benefit of observation of the bench in W.A.No.9/1986 cannot be extended beyond the Sons and of L.N.Sanyasi Raju. As per the directions of the Hon'ble High Court, the Government initiated an enquiry in to the community claim of Sri L.N.Sanyasi Raju, but it was abated due to the death of said Sanyasi Raju on 07.09.1997 vide Memo No.290/CV2/ 83-47, Dt.12.12.1998, Social Welfare (CV) Department.

- Therefore, the enquiry into the community status of said Sri LN Sanyasi Raju is in conclusive and no finality reached in the matter. Therefore the present Revision Petitioner cannot seek the benefit of the orders of High Court passed in WP.No.3240/1989.

[Contd..on P.4]

- The Revision Petitioner further argued that the orders given in WP.No.4646/1999 dated 30-9401999 and appeal against such order in WA No.1189/1999 dated 24-08-1999 are supporting her case. Infact in the said orders, directions were given by the Hon'ble High Court to the District Collector, Vizianagaram, to proceed as per the provisions of Act 16 of 1993 and Rules 1997 made there under in case of doubtful claim of Sri Vikramchandra Sanyasi Raju who is the son of said Sri LN. Sanyasi Raju. Thus, the orders are not restraining the authorities to conduct any enquiry into the suspicious or doubtful claims of the claimants.

- Therefore, the present Revision Petitioner cannot take shelter under the orders of Hon'ble High Court given in the case of Sri L.N.Sanyasi Raju or any other his blood relatives. No order given by any court in her favour conforming her community status as ST-Konda Dora, was placed before the authorities. The rulings cited by the Revision Petitioner are not relevant to the facts and circumstances of the case.

- No caste validity based on the blood relative shall be granted when the caste validity of blood relatives itself is under suspicion and doubtful. Hence the "finality of litigation" in the claim of the Revision Petitioner has not come to an end.

- The Full Bench of this High Court of AP held in the case of A.P. Scheduled Tribes Employees Association v. Aditya Pratap Bhanjdev and Ors. held that "No person who does not belong to Konda Dora can claim to belong to Konda Dora either by a process of comparison, or can, by a process of equalization, and/or by reason of residence in hill/tribal area, claim to belong Konda Doras. Therefore, the Revision Petitioner cannot claim on the basis of the claims of others as ST.

- As per the orders of Government of India, Ministry of Home affairs vide No.39/37/73-SCT-1 dt.21.05.1977 each case is to be examined in the light of the circumstances prevalent in that case. The Government of India, (Ministry of Social Justice and Empowerment), further reinforced vide No.12017/02/2017-SCD (R.L.Cell), dated 03-10-2019, wherein it is stated that ' each individual case will have to be examined in the light of facts and circumstances in such cases'.

Issue No.3: Whether the chieftains of Hill Zamindars of different estates in Vizianagaram District are entitled to be treated as Konda Dora STs?

- The claim of the Revision Petitioner is that she belongs to hill Zamindars family and are treated as ST-Konda Dora. The Appellant claims that Chieftains of the Hill Zamindaries like Andra, Kurupam, Merangi and Salur belong to the same caste i.e. Konda Dora Caste as per the Government records, and on that stand some of the family members also obtained community certificate as Konda Dora, as such she is also entitled to be treated as ST.

- The Supreme Court in the case of Satrucharla Vijaya Rama Raju vs Nimmaka Jaya Raju & Ors. passed an order on 27th October, 2005, (2005 AIR SCW 6197), confirming the decision of the Hon'ble High Court rendered in the Election Petition No.13 of 1999. The High Court of AP at length discussed about the chieftains of Hill Zamindars of Vizianagaram District and negated the status of the Hill Zamindars of Vizinagaram District as ST-Konda Dora. (2004 (4) ALT 14} Thus, the Revision Petitioner cannot claim of her community status as ST- as a matter of right.

[Contd..on P.5]

Issue No.4: Whether the Child will acquire the Community Status of father automatically as a matter of course?

- The Revision Petitioner claims that father late Sri S.P.V.N. Ramachandra Deo is the brother of Sri S. Narayana Jana Deo who was considered as ST as per the order in WP.5306/81 and since her father belongs to ST-Konda Dora, she will also acquire ST status automatically.

- It is pertinent to cite here an important averment. As per the joint statement given by the Revision Petitioner here in and her father S.P.V.N.Rama Chandra Deo before the District Level Scrutiny Committee(DLSC), shows that they are Oriya Kshatriyas up to 1978 and after 1978 only they obtained the ST Konda Dora caste certificate and her father did not claim job on the basis of the scheduled tribe certificate and their traditional livelihood is agriculture and they worshiped village goddess and Venkateswaraswami, and her daughter married Ravindra kumar dev of Orissa state.

- Admittedly, both the Revision Petitioner and her father belong to "Oriya Kshtriaya" before 1978. Therefore, the community status of her father as ST-Konda Dora is also legally questionable. The claim of the Revision Petitioner on the strength of such community status is untenable in the eye of both fact and law. Admitted facts need not be proved. Oriya Kshatriya is not a notified ST in Andhra Pradesh.

- A five judge Constitution bench of the Supreme Court in State of Maharashtra Vs Millind (AIR 2001 SC 393), held that it is not possible to say that State Governments or any other authority or courts or tribunals are vested with any power to modify or vary the Presidential Orders. If that be so, no enquiry is permissible, and no evidence can be let in for establishing that a particular caste or part or group within tribes or tribe is included in Presidential Order if they are not expressly included in the Orders. In the present case, no documents placed showing her caste as Konda Dora prior to the year 1979. Therefore, the Revision Petitioner is not entitled to seek the community status of ST-Konda Dora, if her caste is a Oriya Kshatriya prior to 1978.

- The burden proof lies on the claimant as per the Rule 6 of the Rules 1997, to prove that she belongs to caste to which she claims to belong. The Revision Petitioner failed to discharge her burden in proving her community as ST-Konda Dora.

- The Hon'ble Supreme Court, citing the broad parameters in determining the community status of an individual in the case Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, 8th November 2011, where it is observed that "Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim".

- The authorities dealt the enquiries in the case of Revision Petitioner are in accordance with the provisions of the A.P(Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 read with the A.P (Scheduled Castes, Scheduled Tribes and Backward classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.

[Contd..on P.6]

- In view of the above, there is no irregularity or illegality in cancelling the community certificate issued to the Revision Petitioner as ST-Konda Dora. The impugned order passed vide G.O.Ms.No.81, S.W.(CV2) Dept., Dated 31-8-2001 confirming the orders of the District Collector, Vizianagaram vide Rc.No.1030/95/C7. Dt.03.10.99, cancelling caste certificate issued in favour of the Revision Petitioner, is hereby further upheld. The Revision Petition is hereby dismissed in exercise the power conferred on this authority under Section 8 of the Act 1993 and rules made there under. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

8. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the Revision Petition filed by Smt. S. Aruna Kumari does not deserve any interference. Hence, the impugned order passed vide G.O.Ms.No.81, S.W.(CV2) Dept., Dated 31-8-2001 in confirming the orders of the District Collector, Vizianagaram vide Rc.No.1030/95/C7, Dt.03.10.99, cancelling caste certificate issued in favour of the Revision Petitioner, is hereby further upheld and the Revision Petition filed by Smt. S. Aruna Kumari is hereby dismissed. The certificate issued by the then M.R.O, Salur, deemed to be cancelled.

9. The Collector & District Magistrate, Vizianagaram is directed to take necessary consequential action in the matter, accordingly.

10. The records (Rc.No.435/07/C5) containing (Volume-I, II & III) received from the Collector & District Magistrate, Vizianagaram in the reference 6th read above, are returned herewith in original to him with a request to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Vizianagaram.(we)
(with original records) (BY RP)

Smt. S. Aruna Kumari, Administrative Officer,
Divisional Office, Oriental Insurance Co. Ltd.,
Berhampur (PO), Ganjam District, Odisha State.

Sri P.B.A. Kurma Raju, Advocate,
6-11/1, Kota Street, (Devarapeata Road),
Salur- 535 591, Vizianagaram District.

Copy to:

Smt. Pamula Pushpa Srivani, Hon'ble MLA,
D.No.1-41, Chinna Merangi Village,
Jiyamavalsa(M), Vijayanagaram District,
Andhra Pradesh. (For favour of information)

The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER